

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

WELLINGTON INDUSTRIES, INC.,

Petitioner

v.

NATIONAL LABOR RELATIONS BOARD,

Case Nos. 14-1174; 14-1205

NLRB Case No. 7-CA-091271

Respondent

**PETITIONER WELLINGTON INDUSTRIES, INC.'S ANSWER TO
RESPONDENT NATIONAL LABOR RELATIONS BOARD'S CROSS-
APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD**

Pursuant to Rule 15(b)(2) of the Federal Rules of Appellate Procedure, Petitioner Wellington Industries, Inc. ("Wellington") answers the Cross-Application for Enforcement of an Order of the National Labor Relations Board ("NLRB"), filed October 16, 2014, as follows:

1. Wellington agrees that this Court has jurisdiction over the NLRB's cross-application and that venue is proper in this Circuit.
2. Wellington admits that the NLRB issued an order against Wellington on December 13, 2013, in Board Case No. 7-CA-091271, reported at 360 NLRB

No. 14, and that Wellington filed a petition with this Court for review of that order, filed on September 11, 2014.

3. Wellington denies that the acts and events found by the NLRB in that Order constitute "unfair labor practices" under section 8(a)(5) of the National Labor Relations Act, 29 U.S.C. §158(5), or otherwise. Wellington further denies that the Board is entitled to enforcement of its Order to the extent that the Board found Wellington responsible for any unfair labor practices or other wrongdoing.

4. In further answer, Wellington affirmatively alleges that the NLRB's Order fails to conform to the requirements of 28 U.S.C. §160(e) and (f) because the Board's findings and conclusions are not supported by substantial evidence of the record considered as a whole, and/or because the Board failed to apply the proper legal standard or departed from Board precedent without giving any reason or justification therefore.

5. In further answering, Wellington affirmatively alleges:

- a. The NLRB erred by adopting the Administrative Law Judge's ruling, finding, and conclusion that Wellington violated Section 8(a)(5) in refusing to allow John Zimmick to assist Local One at the step 3 grievance proceeding for Anthony Williams on October 15, 2012.

- b. The NLRB erred by once again failing to consider ("pass on") the issue of affiliation between Independent Local Union One and UAW Local 174.
- c. The NLRB erred by denying Wellington's Motion for Partial Reconsideration on August 13, 2014.

6. Wellington submits that the Board's Cross-Application for Enforcement of Order should be denied to the extent that the Board found Wellington responsible for any unfair labor practices or other wrongdoing, and that Wellington's Petition for Review should be granted.

Respectfully submitted,

KERR, RUSSELL AND WEBER, PLC

BY: /s/ Mark C. Knoth

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Dated: November 6, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Answer to Respondent National Labor Relations Board's Cross-Application for Enforcement** is being served upon all parties in this case by filing a copy of the same with this Court's Electronic Case Filing (ECF) system, which will provide electronic service on all counsel of record in this case, as allowed by the Federal Rules of Appellate Procedure and D.C. Circuit Rule 25(c).

KERR, RUSSELL AND WEBER, PLC

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